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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th June 2009

No. 5143—li/1(SS)-97/1991(pt.)-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 9th March 2009 in Industrial Dispute Case No. 8/2004 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial disputes between the Management of M/s Kunuan Milk Producers Co-operative Society Ltd., Kunuan, Bargarh and its Workman Shri Sukanta Thaty, S/o Banamali Thaty, At/P.O. Kunuan, Via Ramunda, Dist. Bargarh was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR
INDUSTRIAL DISPUTE CASE No. 8 OF 2004
Dated the 9th March 2009

Present:

Smt. Suchismita Misra, LL.M.,
Presiding Officer, Labour Court, Sambalpur.

Between:

The Management of First Party—Management
M/s Kunuan Milk Producers
Co-operative Society Ltd., Kunuan
Bargarh.

And Second Party—Workman
Its Workman
Shri Sukanta Thaty, S/o Banamali Thaty,
At/P.O. Kunuan, Via Ramunda
Dist. Bargarh.

Appearances :

For the First Party—Management .. None

For the Second Party—Workman .. Self

AWARD

The Government of Orissa in the Labour & Employment Department in exercise of power conferred upon them by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their Order No. 2641—li/1(SS)-97/1991-LE., dated the 12th March 2004 have referred the following dispute for adjudication by this Court :—

“Whether the dismissal of services of Shri Sukanta Thaty with effect from the 27th June 1998 by the Management of M/s Kunuan Milk Producers Co-operative Society Ltd., Kunuan, Dist. Bargarh is legal and/or justified ? If not, what relief Shri Thaty is entitled to ?”.

2. The dispute which has been referred for adjudication arose under the following circumstances :—

The second party Shri Sukanta Thaty who was working as the Secretary of M/s Kunuan Milk Producers Co-operative Society Ltd., Kunuan, District Bargarh filed a complaint before the Conciliation Officer-cum-Assistant Labour Officer, Bargarh alleging illegal termination of his employment by way of dismissal with effect from the 24th April 1999 by the first party namely the Management of M/s Kunuan Milk Producers Co-operative Society Ltd., Kunuan District Bargarh. On receipt of this complaint, the Assistant Labour Officer, Bargarh attempted for a conciliation in the matter. However, he had to close the conciliation proceeding as the Management did not appear before him. Thus the conciliation having failed he submitted a failure report to the State Government in the Labour & Employment Department and ultimately the dispute was referred for adjudication.

3. The case of the second party workman as would appear from the statement of claim filed by him is that he was engaged by the first party management on the 1st October 1990 and continued in his such employment until he was illegally suspended from his services on the 27th June 1998 for no fault on his part by the first party management. Thereafter the first party management initiated a domestic enquiry against him on the charges of misconduct; wilful negligence in duty and unauthorised retention of the claim of the members of the society. It is the specific case of the second party workman that the aforesaid domestic enquiry as held against him was not conducted in a fair and proper manner by the first party management inasmuch as he was not even given the opportunity of being heard. On the basis of the report of the Enquiry Officer he was ultimately dismissed from his job. He thus challenged the order of the management terminating his services in the aforesaid manner as illegal since the same was done without compliance of the provisions of Section 25-F of the I. D. Act.

4. The first party management was set *ex parte* in the present proceeding vide Order, dated the 22nd May 2006 of this Court on his refusal to receive the notice issued from the Court for his appearance in this case and to file his written statement in connection with this proceeding.

5. To substantiate his claim, the workman got himself examined as W.W. 1. He categorically deposed as to whatever he had pleaded in his claim statement as described above. His evidence before the Court in gist are to the following effect. According to him, he was first suspended illegally from his duty by the first party management on the 27th June 1998. Thereafter a domestic enquiry was conducted against him on the charges of a misconduct by the first party management without affording him reasonable opportunity of being heard in connection with the said enquiry or to explain in the matter before the Enquiry Officer. Then on the basis of the report of the Enquiry Officer the management dismissed him from his services.

Since there has been no contest from the side of the first party management in the present proceeding, the evidence adduced by the second party workman have to be accepted as true and correct. Thus keeping in view the uncontested/undisputed evidence of the second party workman that his services were illegally terminated by the first party management without compliance of the provisions of Section 25-F of the Industrial Disputes Act, he is certainly found to be entitled for restoration of his services in the establishment of the first party management in the same position which he was holding before termination of his services. The workman has pleaded and stated in his evidence that after being dismissed from his services in the establishment of the first party management he remained unemployed despite his best efforts to get some alternative employment and as such was compelled to lead a miserable life during the period after his termination. The workman's such evidence also remained undisputed by the first party management. In the aforesaid circumstances, it has to be held that the second party workman is entitled for his reinstatement in the services under the first party management with full back wages and other service benefits incidental thereto including continuity in this services. Therefore, the first party management is directed to reinstate the second party workman in his services which he was doing at the time of his aforesaid termination by his employer with full back wages and other service benefits accrued in his favour in the meantime maintaining the continuity in his services.

The reference is answered accordingly.

Dictated and corrected by me.

SUCHISMITA MISRA
9-3-2009
Presiding Officer
Labour Court, Sambalpur

SUCHISMITA MISRA
9-3-2009
Presiding Officer
Labour Court, Sambalpur

By order of the Governor
K. C. BASKE
Under-Secretary to Government